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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,681	12/01/2003	Peter W. Heuell	ELSE-0825/B990064	2365
23377	7590	08/26/2004	EXAMINER	
WOODCOCK WASHBURN LLP ONE LIBERTY PLACE, 46TH FLOOR 1650 MARKET STREET PHILADELPHIA, PA 19103			NGUYEN, VINCENT Q	
			ART UNIT	PAPER NUMBER
			2858	

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,681

Applicant(s)

HEUELL ET AL.

Examiner

Vincent Q Nguyen

Art Unit

2858

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Election filed 8/04/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-36 is/are pending in the application.
- 4a) Of the above claim(s) 25-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>01/20/04, 07/20/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group II (Claims 28-36) in the reply filed on 8/04/2004 is acknowledged.

Claims 25-27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/04/2004. The Election/Restrictions requirement is thus made FINAL.

Specification

2. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

3. The abstract of the disclosure is objected to because it should include the technical disclosure (The abstract should include the actuator, not the energy meter and its package). Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 28-32, 35, 36, are rejected under 35 U.S.C. 102(b) as being anticipated by Borchardt et al. (4,851,621).

Regarding claim 28, Borchardt et al. discloses an actuator switch comprising (Figure 2) an inner actuator (26, 46) comprises ribs (Compartments on cylinder 46 and

the edge of element 26) separated by at least one gap (The gap between slot portion 44 and disk 26); and an outer housing (18, 50) comprises a locking-tab (36), the locking-tab (36) corresponding to the at least one gap for interlocking (See figure 7).

Regarding claim 29, Borchardt et al. discloses the inner actuator (26, 46) is rotatable within the outer housing (18, 50).

Regarding claim 30, Borchardt et al. discloses the actuator has an upper surface comprising a flange (40) having two sides (44).

Regarding claim 31, Borchardt et al. discloses both sides (44) of the flange (40) are flexible to give way to the locking-tab.

Regarding claim 32, Borchardt et al. discloses locking tab (36) comprises a chamfer (The recess above aperture 20).

Regarding claim 35, Borchardt et al. discloses the inner actuator (26,46) further comprises a plurality of substantially flat flanges (37, 39)

Regarding claim 36, Borchardt et al. discloses the flanges (37, 39) are about 90 degree apart (See figure 8, Column 3, lines 42-43).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Borchardt et al. (4,851,621).

Regarding claim 33, Borchardt et al. does not disclose the outer housing further comprises a hex area.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the outer housing as taught by Borchardt et al. comprises a hex area into the system of Borchardt because, the hex area or any other shape for the outer housing of Borchardt et al., does not change the function of the actuator.

8. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borchardt et al. (4,851,621) in view of Amonett (5,949,038).

Regarding claim 34, Borchardt et al. does not disclose a plurality of cantilevered springs.

Amonett discloses a system similar to that of Borchardt et al. and further discloses (Figure 8) a cantilevered springs (576) for the purpose of enhancing the twist locking (Amonett's column 20, lines 57-67) to permit the actuator operation in spite of contamination (Amonett's column 2, lines 8-15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the springs as taught by Amonett into the system of Borchardt because the springs would enhance the twist locking and enhance the operation of the actuator even when it is contaminated.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Patent No. 5,408,058 (Homik et al.) discloses an actuator having an inner and outer housing. When the knob is released the compression spring returns the contact operating mechanism and the movable contacts to their neutral position. The switch has three positions and two sets of fixed contacts. In the neutral position one slidable contact bridges a first set of fixed contacts. When the knob is pulled in the first direction while releasing the interlock element, the slidable contacts bridge both sets of fixed contacts. In the second direction, neither set of fixed contacts is bridged.

Contact Information

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vincent Q Nguyen whose telephone number is (571) 272-2234. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, N. Le can be reached on (571) 272-2233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



August 20, 2004

Vincent Q Nguyen
Patent Examiner
Art Unit 2858